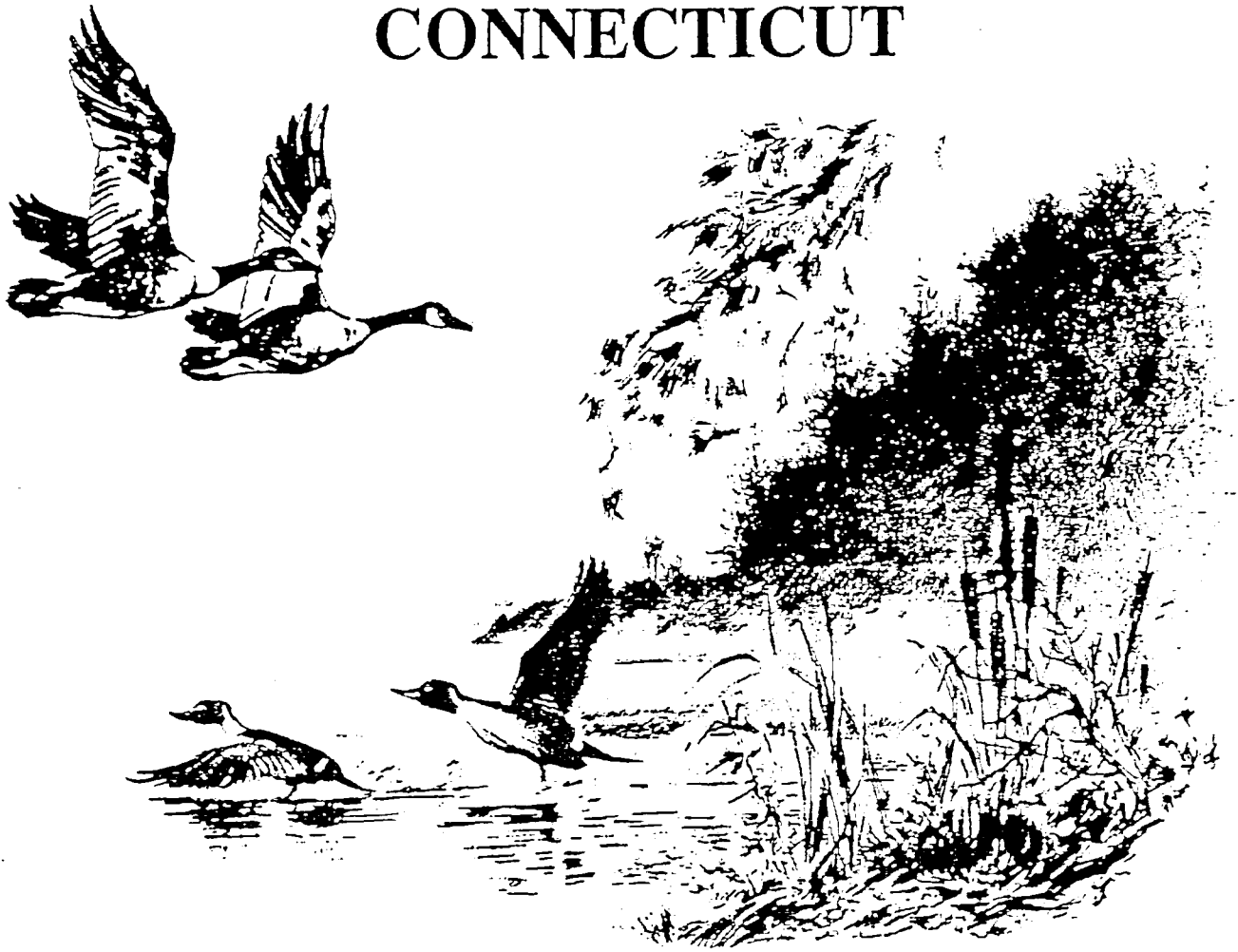


**TOWN
OF
ESSEX
CONNECTICUT**



**INLAND WETLANDS AND
WATER COURSES COMMISSION
REGULATIONS**

Amended to March 25, 1994

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ESSEX INLAND WETLANDS AND WATER COURSES COMMISSION

REGULATIONS

SECTION 1 - TITLE, AUTHORITY, JURISDICTION AND EFFECTIVE DATE

1.1 These Regulations shall be known and cited as the "Inland Wetlands and Water Courses Regulations of the Town of Essex, Connecticut."

1.2 These Regulations have been adopted by the Essex Inland Wetlands and Water Courses Commission, hereinafter referred to as the "Commission," and in accordance with the provisions of Chapter 440, Sections 22a-36 through 45, inclusive, of the Connecticut General Statutes as amended, the Commission having been established by municipal vote of the Town of Essex in an ordinance adopted September 6, 1973.

1.3 Within the Town of Essex, no designated inland wetlands or watercourses shall be polluted, altered, obstructed, constructed upon, have wastes or materials deposited or discharged in or removed from, except in conformance with these Regulations.

1.4 These Regulations and any amendments, changes or deletions thereto shall become effective upon adoption by the Commission, after a public hearing, in the manner specified in Sections 22a-42a of the Connecticut General Statutes as amended.

SECTION 2 - DEFINITIONS

2.1 General: The words used in these Regulations shall have the meaning commonly attributed to them. Any doubts concerning their precise meaning shall be determined by the Commission in accordance with the purpose and intent of these Regulations.

2.2 Specific Definitions: Specific terms and phrases employed in these Regulations are defined and explained as follows:

- (a) "Bog" means a poorly drained area containing an accumulation of decaying organic material and characterized by an association of plants recognized as bog species, such as those listed in the booklet entitled, Inland Wetland Plants of Connecticut, Niering, W.A. and R.H. Goodwin, The Connecticut Arboretum, Connecticut College, New London (May, 1973);
- (b) The "Day of Receipt" of an application shall be the day of the next regularly scheduled meeting of the Essex Inland Wetlands and Watercourses Commission, immediately following the day of submission to the Commission or the Commission's agent of such application, provided such meeting is no earlier than 3 business days after receipt, or thirty-five days after such submission, whichever is sooner.
- (c) "Deposit" includes but shall not be limited to fill, grade, dump, place, discharge or emit;
- (d) "Discharge" means the emission of any water, substance, waste, or material into the inland wetlands or watercourses whether or not such substance causes pollution;
- (e) "Marsh" means an area normally covered with shallow water, subject to seasonal variations, that contains an association of herbaceous, soft-stemmed plants recognized as marsh vegetation, such as those marsh species listed in the booklet entitled, Inland Wetland Plants of Connecticut, Niering W.A. and R. H. Goodwin, The Connecticut Arboretum, Connecticut College, New London, (May, 1973);
- (f) "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste;

- (g) "Permit" means the whole or any part of any license, certificate of approval or similar form of permission which may be required of any person by the provisions of these Regulations or of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes;
- (h) "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, government agencies, or subdivisions thereof;
- (i) "Pollution" means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the Town by reason of any waste or other materials deposited or discharged therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters;
- (j) "Regulated Activity" means any operation within or any use of an inland wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such inland wetland or watercourse, and any activity occurring within sixty (60) feet of an inland wetland or one hundred (100) feet of a watercourse involving (i) installation or enlargement of a subsurface sewage disposal system (or part thereof), (ii) sewage discharge or overflow, (iii) removal or deposition of any material, (iv) placement, construction, enlargement, or moving of any structure or building, (v) clear cutting of trees, or (vi) any other activity or change deemed by the Commission to be detrimental to wetlands or watercourses, except as otherwise indicated in Section 3 of these Regulations;
- (k) "Remove" includes, but shall not be limited to drain, excavate, mine, dig, dredge, suction, siphon, bulldoze, dragline or blast;
- (l) "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any of the waters of the Town of Essex, including but not limited to change in color, odor, turbidity or taste;

(m) "Significant impact or major effect" means:

i. Any activity involving a deposition or discharge of material or waste which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or watercourse systems or

ii. Any activity involving a removal of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or watercourse systems or

iii. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a water course system or

iv. Any activity which substantially diminishes the natural capacity of any inland wetlands or watercourses to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, and/or provide recreation and open space or

v. Any activity which would result in degrading the quality of a water course or the surface and/or ground water of an inland wetland, such degradation to be measured by standards of the Water Compliance Division of the Connecticut Department of Environmental Protection, where applicable;

(n) "Swamp" means an area with a water table at or near the surface of the ground throughout most of the year and/or having vegetation recognized as swamp species, such as those listed in the booklet entitled, Inland Wetland Plants of Connecticut, Niering, W. A. and R. H. Goodwin, The Connecticut Arboretum, Connecticut College, New London, CT, (May 1973);

(o) "Town" means the Town of Essex;

(p) "Waste" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the Town;

(q) "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial,

public or private, which are contained within, flow through or border upon the Town or any portion thereof, not regulated pursuant to Sections 22a-28 to 22a-35, inclusive, of the Connecticut General Statutes, as amended and which are generally shown for informational purposes only, on a map on file in the office of the Town Clerk of the Town of Essex entitled "Designated Inland Wetlands and Water Courses of the Town of Essex," with adopted revisions. In all cases, the actual character of the watercourse as it exists shall determine whether the watercourse in question is subject to these Regulations and shall be conclusive even if different than the National Cooperative Soils Survey and/or the Designated Inland Wetlands and Water Courses map referred to above;

- (r) "Wetlands" means land including submerged land, not regulated pursuant to Sections 22a-28 to 22a-35, inclusive, of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the National Cooperative Soils Survey (as may be amended from time to time) of the Soil Conservation Service of the United States Department of Agriculture. These soil types are generally shown for informational purposes only on a map on file in the office of the Town Clerk of the Town of Essex entitled "Designated Inland Wetlands and Water Courses of the Town of Essex," with adopted revisions. In all cases, the actual character of the soil as it exists shall determine whether the land in question is subject to these Regulations and shall be conclusive even if different from that of the National Cooperative Soils Survey and/or the Designated Inland Wetlands and Water Courses map referred to above. Such areas may include filled, graded, or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey.

SECTION 3 - PERMITTED OPERATIONS AND USES

3.1 The following operations and uses shall be permitted in inland wetlands and watercourses as of right:

- (a) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less, essential to the farming operation. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of water courses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purpose of sale;
- (b) A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to Subsection (b) of Section 22a-42a of the Connecticut General Statutes as amended or as of July 1, 1974, whichever is earlier; and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;
- (c) Boat anchorage or mooring;
- (d) Uses incidental for the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the Town. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant amounts of material from or onto inland wetlands or watercourses or diversion or alteration of a watercourse;
- (e) Construction and operation, by water companies as defined in Section 16-1, or by municipal water supply systems as provided for "Chapter 102 of the

Connecticut General Statutes," of dams, reservoirs, and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies, except as provided in the Connecticut General Statutes, Sections 22a-401 through 22a-410, as amended.

3.2 The following operations and uses shall be permitted, as nonregulated uses in inland wetlands and watercourses, provided they do not disturb the natural and indigenous character of the inland wetland or watercourse by removal or deposition of material, alteration, or obstruction of water flow or pollution of the inland wetland or watercourse:

- (a) Conservation of soil, vegetation, water, aquatic life and wildlife;
- (b) Outdoor recreation, including play and sporting areas, golfcourses, field trails, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

SECTION 4 - PERMITTING OF REGULATED ACTIVITIES WITHIN REGULATED AREAS

4.1 Subject to the provisions of Section 3 hereof, regulated activities affecting inland wetlands and watercourses within the Town are prohibited except as they may be permitted by the Commission. Any regulated activity legally existing as of July 1, 1974, and continuously existing from that date to the present time, shall be exempt from the requirements set forth in these Regulations and permitted to continue provided that no expansion or new or additional regulated activity requiring a permit under these Regulations is conducted without a permit.

(a) Also permitted would be a residential home for which a building permit has been issued or on a subdivision lot, provided the building permit has been issued or the subdivision has been approved by the Town of Essex Planning, and/or Zoning Commissions as of July 1, 1974.

4.2 The Commission shall establish or amend the inland wetlands and watercourses area boundary maps only in accordance with the procedures of Section 22a-42a of the Connecticut General Statutes, as amended. Said maps shall be on file in the Office of the Essex Town Clerk and shall be titled "Designated Inland Wetlands and Water Courses of the Town of Essex," with adopted revisions.

4.3 Petitions requesting changes or amendments to the "Inland Wetlands and Water Courses Map of the Town of Essex," shall contain at least the following information:

- (a) The applicant's name, address and telephone number;
- (b) The owner's name (if not the applicant), address, telephone number and a written consent to the proposed action set forth in the application;
- (c) Applicant's interest in the land;
- (d) The geographic location of the property involved in the petition including a description of the land in sufficient detail to allow identification of the disputed wetland or watercourse areas;
- (e) The reasons for the requested action;

- (f) The names and addresses of adjacent property owners; and
- (g) A site plan showing proposed development of the property.

4.4 The Inland Wetlands Commission may require the property owner to present documentation by a certified soil scientist that the land in question does not have a soil type classified by the National Cooperative soils survey as poorly drained, very poorly drained, alluvial, or flood plain. Such documentation includes a map of the land in question signed by a certified soil scientist on which the flag locations defining the boundaries of the regulated soil types are depicted, along with their appropriate numerical designations at an accuracy of an A2 survey standard established by the State of Connecticut Board or Registry for Professional Engineers and Land Surveyors.

4.5 Watercourses shall be delineated by a competent soil scientist, geologist, ecologist or other individual satisfactory to the Commission.

4.6 A public hearing shall be held on petitions to amend the "Inland Wetlands and Watercourses Map of the Town of Essex." Notice of the hearing shall be published in a newspaper having substantial circulation in the Town of Essex at least twice at intervals of not less than two days, the first not more than twenty-five days nor less than fifteen days, and the last not less than two days, before such hearing. A copy of such proposed boundary change shall be filed in the office of the town clerk for public inspection at least ten days before such hearing.

4.7 Within ninety (90) days after receipt of a complete petition for a changes in the mapped boundaries of any wetland or watercourse, the Commission shall hold a public hearing to consider the petition. The Commission shall act upon the changes requested in such petition within sixty days after the hearing.

4.8 The Commission shall make its decision and state the reasons in writing why the change in the "Inland Wetlands Map of the Town of Essex" was made .

SECTION 5 - APPLICATION PROCEDURE

5.1 The following application procedure shall be adhered to in applying for permission to conduct regulated activities on designated inland wetlands and watercourses or any portion thereof:

- (a) No application shall be deemed complete unless it is in such form and contains such information as the Commission deems necessary for a fair determination of the issues. The Commission shall inform all applicants of such necessary information without delay.
- (b) One (1) original and eleven (11) copies of the application together with the information required by these Regulations or by the Commission shall be furnished at the time of submission of the application in order to permit the Commission to carry out its duties under these Regulations, provided that only four (4) copies of the site development plan and/or plans showing the proposed activity need be submitted at such time. In addition, the Commission reserves the right to request additional copies of any information submitted with the application."
- (c) All information submitted in the application for consideration shall be deemed factual, or in the case of anticipated activity, binding. A knowing failure of the applicant or any of his, her or its agents to provide correct information or performance exceeding the levels of activity anticipated, shall be sufficient grounds for the revocation of any permit under these Regulations and/or for penalties to be imposed. Each day of violation or deception shall be considered as a separate offense.
- (d) Copies of all applications, maps and documents relating to the application shall be open for public inspection in the office of the Commission's Enforcement Agent.

5.2 Applications and Petitions shall include the following information in writing and shall be on a form provided by the Commission and available from the Office of the Town Clerk:

- (a) The applicant's name, complete home and business

addresses, home and business telephone numbers, and nature of his, her, or its interest in the property (Note: complete addresses must be set forth including the actual street address of the applicant; a post office box address without a street address is not sufficient).

- (b) The owner's name (if applicant is not the owner of the property), complete home and business addresses, home and business telephone numbers, nature of his, her or its interest in the property, and written consent to the proposed activity set forth in the application (Notes: (i) complete addresses must be set forth, as provided in (a) above; (ii) if property is owned by a trust, partnership, corporation, or similar entity, the full name and address of each owner of a beneficial interest in such entity must be disclosed; and (iii) if the property has more than one owner, each owner must sign consent).
- (c) The geographical location of the property which is to be affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the properties on the Map of Designated Inland Wetlands and Water Courses of the Town of Essex, with adopted revisions.
- (d) A brief but complete statement of purpose and description of the proposed activity, including the size or extent of the area to be affected.
- (e) Names and addresses of adjacent property owners.
- (f) Tax map number and lot number of affected property.
- (g) Petitions shall require a site location plan with a scale of one inch being equal to 1,000 feet.
- (h) Such additional information as may be required by the Commission.

5.3 The applicant shall certify whether:

- (a) Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of any adjoining municipality;
- (b) Traffic attributable to the completed project on

the site will use streets within the adjoining municipality to enter or exit the site;

- (c) Sewer or water drainage from the project site will flow through and have an impact on the sewage or drainage system within the adjoining municipality; or,
- (d) Water run-off from the improved site will have an impact on streets or other municipal or private property within the adjoining municipality.

5.4 Each applicant shall submit, together with the application, a completed Connecticut Department of Environmental Protection Statewide Inland Wetland and Watercourse Activity Reporting Form, together with an 8 1/2 inch by 11 inch photocopy of that portion of the "United States Geological Survey (USGS) Quadrangle Map" covering the project site, with the bounds of the project site outlined (where possible) or pinpointed with an arrow."

5.5 In the case of any application where any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of Westbrook, Deep River or Old Saybrook, the applicant shall give written notice of the proposed activity, certified mail return receipt requested, to the adjacent municipal wetland agency on the same day of filing an inland wetland permit application with the Town of Essex Inland Wetland Commission. Documentation of such notice shall be provided to the Essex Inland Wetland Commission.

5.6 The Commission shall, in accordance with PA 87-307, notify the clerk of any adjoining municipality of the pendency of any application to conduct a regulated activity when:

- (a) Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of any adjoining municipality;
- (b) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- (c) A significant portion of the sewer or water drainage from the project site will flow through

and significantly impact the sewage or drainage system within the adjoining municipality; or

- (d) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice of the pendency of such application shall be made by registered mail and shall be mailed within seven (7) days of the date of receipt of the application.

5.7 Declaratory Ruling: Exemptions - If the Commission finds, on the basis of the evidence before it, that a proposed activity or use does not involve any regulated activity as defined in Section 2.2 of the Regulations or involves only a permitted use as defined in Section 3, a ruling to proceed shall be granted forthwith. This ruling shall be subject to limitation or revocation if it is later shown that a regulated activity or non-permitted use is a consequence of that proposed activity. The Commission shall state in writing its reasons for finding that a proposed permitted use or other activity does not involve a regulated activity pursuant to these Regulations and shall include such statement in its records.

5.8 Summary Ruling: Permits - If the Commission finds that the proposed activity is a regulated activity not involving significant impact or major effect on the inland wetland or watercourse as defined in Section 2.2(m), it may grant a permit, with or without conditions, after initial review without a public hearing. In order to grant a permit at this stage, the Commission, after full review of the considerations set forth in Section 6.1(d) and other pertinent factors, shall issue an opinion presenting its reasons for granting the permit with or without conditions. Such opinion may include discussion of the considerations and criteria listed in Section 6.1(d) through 6.1(g). Such opinion shall be included by the Commission in its records.

5.9 Final Decision for Declaratory or Summary Rulings: In the case of a Declaratory or Summary Ruling, the Commission shall render a final decision within 65 days of receipt of a complete application.

5.10 Plenary Ruling: If the Commission finds, on the basis of the evidence before it, that the proposed activity does or may involve a significant impact or major effect on the inland wetlands or watercourses as defined in Section 2.2(m), it shall docket such proposal for further investigation and public hearing and shall request information which may include, but is not limited to, the following:

- (a) Site Plan--a map of the proposed use and the property which will be affected shall be submitted. The map shall be at a scale to be determined by the Commission. Detailed information to be included on this site plan shall be requested by the Commission according to its evaluation requirements;
- (b) Soil Sample Data--If the parcel lies within an area believed to contain poorly drained, very poorly drained, alluvial, and/or floodplain soils, the data shall show precisely where each specific soil type is found. Soil types identified must be consistent with the categories established by the National Cooperative Soils Survey of the U.S. Soil Conservation Service;
- (c) Ecological-Biological Evaluation--If the affected property is believed to include any portion of a swamp, bog, marsh, the applicant may be required to submit an evaluation of the extent of the presence of plant species commonly associated with swamps, bogs and marshes. The applicant may also be requested to submit an evaluation of the probable effect of his proposed activity upon the ecological function of the affected property;
- (d) Analysis of Material to be Deposited--The applicant may be required to describe any materials to be deposited or discharged on or in the affected property in terms of volume, composition and the possibility of erosion or leaching from such deposited materials;
- (e) Proposed Construction Description--The applicant may be required to describe the proposed construction or the erection of structures on the affected property, including blueprints, engineering and architectural plans or designs, where available or reasonably attainable. Such description should include the purposes of such construction activity;
- (f) List of Affected Property Owners--The applicant may be required to submit a list of other property owners whose rights or interests may or will be affected by the proposed activity, including those owning land which borders affected waterways downstream from the proposed activity;

- (g) Stream Characteristics--If the proposed activity may affect a watercourse lying within, partly within, or flowing through or adjacent to the affected property, the applicant may be required to submit information relative to the present character and the projected impact of the proposed activity upon the watercourse and its floodplains.

5.11 Public Hearings: All public hearings concerning applications shall commence no later than sixty-five (65) days after the day of receipt (as defined in Section 2.2 (i) of these Regulations) of a completed application.

- (a) Notice of hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in the Town.
- (b) All applications, maps and documents relating to the hearing shall be open for public inspection in the office of the Town Clerk. Notices of hearings shall be sent by certified mail to the applicant, adjacent and other known affected property owners .
- (c) The Commission shall render a final decision on the application within thirty-five days after the completion of a public hearing or in the absence of a public hearing within sixty-five days from the date of receipt of the application.

5.12 There shall be a filing fee sufficient to cover the reasonable cost of reviewing and acting on applications, including, but not limited to, the costs of certified mailings, publications of notices and decisions and monitoring compliance with permit conditions or Commission orders. Such fee shall be established by the Commission and may be revised from time to time to reflect changing costs or experience. Such fee shall be payable upon submission of such application to the Commission and no application shall be complete unless the required filing fee shall have been paid. All information which the Commission may require to be submitted in connection with applications hereunder shall be provided at the expense of the applicant.

SECTION 6 - RENDERING DECISION AFTER FINAL REVIEW

6.1 The Commission shall consider the following in making its final decision on permit application:

All evidence offered at any public hearing;

- (b) Any reports from other individuals, commission and Federal or State agencies, including the Soil and Water Conservation District and the Connecticut Department of Environmental Protection;
- (c) Such additional information as may be required by the Commission.
- (d) All relevant facts and circumstances, including but not limited to the following:
 - i. The environmental impact of the proposed action;
 - ii. The alternatives to the proposed action;
 - iii. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;
 - iv. Irreversible and irretrievable commitments of resources which would be involved in the proposed activity;
 - v. The character and degree of injury to, or interference with safety, health or the reasonable use of property which shall result or be threatened; and
 - vi. The suitability or unsuitability of such activity to the area for which it is proposed.
- (e) The availability of further technical improvements or safeguards which could feasibly be added to the plan or action.
- (f) The possibility of further avoiding reduction of the inland wetlands' or watercourses' natural

capacity to support desirable biological life,
prevent flooding, supply water, control
sedimentation and/or prevent

erosion, assimilate wastes, facilitate drainage and
provide recreation and open space;

- (g) The extent to which the exercise of property rights and the public benefit derived from such use may or may not outweigh or justify the possible degradation of the inland wetlands or watercourses, the interference with the exercise of other property rights and the impairment or endangerment of public health, safety or welfare.

6.2 When rendering a decision, the Commission shall:

- (a) Consider the alternatives to the proposed action including a consideration of alternatives which might enhance environmental quality of the inland wetlands or watercourses or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity proposed in the application. This consideration should include, but is not limited to, the alternative of taking no action or postponing action pending further study, and the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.
- (b) In the case of any application which received a public hearing, a permit shall not be issued unless the Commission finds that a feasible and prudent alternative does not exist. In making this finding, the Commission shall consider the facts and circumstances set forth in Section 6.1(d) of these Regulations. The finding and reasons therefor shall be stated on the record in the decision of the Commission.

SECTION 7 - PERMITS

7.1 In granting a permit for a regulated activity or following a public hearing, the Commission shall issue a written decision presenting the reasons for granting such permit. The decision may include discussion of the considerations and criteria listed Section 6.1(d) through 6.1(g) and 6.2 (a) and (b).

7.2 In denying a permit for a regulated activity or denying a permit in part, the Commission shall issue a written decision presenting its reasons. The decision may include discussion of the considerations listed in Section 6.1(d) through 6.1 (g) and 6.2 (a) and (b).

7.3 In granting any permit for a regulated activity with or without conditions or in denying any permit for a regulated activity, the Commission shall

- (a) Inform the applicant of its decision in granting with or without conditions or in denying a permit by certified mail within fifteen (15) days of the date of such decision;
- (b) If an activity authorized by the inland wetlands permit also involves an activity or project which requires zoning or subdivision approval, a special zoning permit, variance or special exception, a copy of the decision and report on the application shall be filed with the Town of Essex Planning, Zoning or Planning and Zoning Commission within fifteen days of the date of the decision.
- (c) Publish a notice of its decision once within fifteen (15) days of the date of such decision in a newspaper having a general circulation in the Town.

7.4 The Commission, through its Enforcement Agent, shall be notified in writing upon initiation and completion of the permitted activity.

7.5 No permit may be assigned or transferred.

7.6 If a bond or insurance is required in accordance with Section 11 of these Regulations, no permit shall be issued until

such bond or insurance is provided.

7.7 The duration of any permit shall be for a period of five (5) years. Any regulated activity approved by the Commission shall be completed within one (1) year from the time such activity is commenced, provided that the Commission may establish a specific time period within which any such regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one (1) year, and further provided that the Commission may extend (a) the time period of the original permit provided such period shall not extend beyond ten (10) years from the date such permit was granted, or (b) the time period within which an activity, once commenced, is required to be completed under this section. The renewal and extension of any permit shall be at the discretion of the Commission and the Commission may, in its discretion, hold an additional hearing in connection with any request for renewal and extension. No permit holder shall be entitled to a renewal and extension of such permit except in the discretion of the Commission and the granting of a renewal and extension shall not preclude the Commission from denying any further renewals or extensions.

7.8 All permits expire upon the completion of the activity specified therein.

7.9 NOTWITHSTANDING THE GRANTING OF ANY PERMIT BY THIS COMMISSION, NO PERSON SHALL CONDUCT ANY REGULATED ACTIVITY WITHIN AN INLAND WETLAND OR WATERCOURSE WHICH REQUIRES ZONING OR SUBDIVISION APPROVAL WITHOUT FIRST HAVING OBTAINED A VALID CERTIFICATE OF ZONING OR SUBDIVISION APPROVAL, SPECIAL PERMIT, SPECIAL EXCEPTION OR VARIANCE OR OTHER DOCUMENTATION ESTABLISHING THAT THE PROPOSAL COMPLIES WITH THE ZONING OR SUBDIVISION REQUIREMENTS OF THE TOWN OF ESSEX.

SECTION 8 - APPEALS

8.1 . . . Any person aggrieved by any regulation, order, decision, or action made pursuant to these Regulations by the Commission may, within fifteen (15) days after publication of such regulation, order, decision, or action, appeal to the Superior Court for the Judicial District of Middlesex in the manner set forth in the Section 22a - 43 of the Connecticut General Statutes.

SECTION 9 - OTHER PERMITS AND LICENSES

9.1 Nothing in these Regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, the State of Connecticut, or any Town agency (including but not limited to the Essex Zoning Commission and/or the Essex Planning Commission). The obtaining of such assents, permits or licenses is solely the responsibility of the applicant.

9.2 Where there is a conflict between the provisions of these Regulations and those of any other applicable statute, ordinance or regulation, the provisions of the statute, ordinance or regulation which imposes the greatest restriction on the use of the inland wetland or watercourse shall govern.

9.3 The invalidity of any word, clause, sentence, section, part or provision of these Regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

SECTION 10 - ENFORCEMENT

10.1 Application for a permit shall constitute permission for, and consent to inspections of the site of proposed activity by the Commission or its designated agents at any reasonable time before or after the granting of a permit to ascertain conformance and/or possible violations of these Regulations and the permit or license.

10.2 The Commission may suspend or revoke a permit if it finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. Such suspension or revocation shall occur only after giving notice to the permittee of the facts or conduct which warrant the intended action and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit, that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The Commission may issue such cease and desist orders as are necessary to preserve the issues for hearing.

10.3 The applicant shall be notified of the Commission's decision by certified mail within fifteen (15) days of the date of the decision and the Commission shall cause notice of its order of revocation or suspension of a permit to be published once within fifteen (15) days of the date of such decision in a newspaper having general circulation in the Town. A copy of any such order or revocation or suspension shall be sent to the Commissioner of Environmental Protection no later than ten (10) days after its issuance. However, failure to submit such notice shall not impair the validity of the order.

10.4 If the Commission or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of Sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended, or of these Regulations, the Commission or its duly authorized agent may:

- (a) Issue a written order and send it by certified mail to such person conducting such activity or maintaining such facility or condition to cease immediately such activity or maintaining such facility or to correct such facility

or condition. A hearing shall be held within ten (10) days to provide the person an opportunity to be heard and to show cause why the order should not remain in effect. The Commission shall consider the facts presented at this hearing and notify the person within ten (10) days after completion of the hearing by certified mail that the original order remains in effect, that a revised order is in effect or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to section 10.5 of these Regulations; or

- (b) Issue a notice of violation to such person conducting such activity or maintaining such activity, facility or condition, stating the nature of the violation, the jurisdiction of the Commission, and prescribing the necessary action and steps to correct the violation including, without limitation, halting work in wetlands or watercourses, appearing at a meeting of the Commission to discuss the unauthorized activity, facility, or condition, providing a written reply to the notice, or filing a proper application for the necessary permit. Failure to carry out the action(s) directed in a notice of violation may result in the issuance of the order provided in subsection (a), above, of this section or other enforcement proceedings as provided by law."

10.5 In the event any person commits, takes part in, or assists in any violation of any provisions of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes, as amended, including regulations promulgated by the Essex Inland Wetlands and Water Courses Commission, the provisions of section 22a-44 of the Connecticut General Statutes shall apply.

SECTION 11 - BOND AND INSURANCE

11.1 The Commission may require the posting of a Maintenance Bond or Performance Bond in the form of a cash Bond or an Irrevocable Letter of Credit. The Bond shall be in a form satisfactory to the counsel for the Commission and shall be in such amount as is established by the Commission to assure completion of the regulated activity. The term of the Bond shall be determined by the Commission. In the event that the regulated activity is not completed within the original term of the Bond, it shall be the responsibility of the Applicant to request an extension of said term.

11.2 The bond and sureties shall be conditioned on substantial compliance with all the provisions of these Regulations and conditions imposed by the Commission upon granting of a permit.

11.3 The applicant may be directed to certify that he has insurance in an amount to be determined by the Commission commensurate with the projected operation against liability which might result from the proposed operation or activity covering any and all damages which might occur within three years of completion of such operation.

SECTION 12 - AMENDMENTS AND CONFORMITY WITH STATE REGULATIONS

12.1 These Regulations, including the map entitled, "Designated Inland Wetlands and Water Courses of the Town of Essex, with adopted revisions, may be amended, changed, or repealed by the Commission on its own initiative or upon petition of any person. Such amendment, change or deletion shall be made by a majority vote of the Commission only after a public hearing thereon which shall be conducted in accordance with the Commission's Bylaws. Notice of the time and place such hearing shall be published in the form of a legal advertisement appearing in a newspaper having substantial circulation in the Town at least twice at intervals of not less than two days, the first not more than twenty-five (25) days nor less than fifteen (15) days, the last not less than two days, before such hearing. A copy of such proposed regulation or boundary shall be filed with the Town Clerk for public inspection at least ten (10) days before such hearing. In accordance with the provisions of 22a-42 of the Connecticut General Statutes, a copy of the legal notice and the proposed regulations or amendments thereto, except determinations of boundaries, shall be provided to the Commissioner of the Department of Environmental Protection at least thirty-five (35) days before such hearing. Regulations, boundaries or changes therein shall become effective at such time as fixed by the Commission, provided a copy of such change or amendment is filed with the Town Clerk. Whenever the Commission makes a change in its Regulations or boundaries, it shall state upon its records the reason for the change. All petitions requesting a change in the Regulations or boundaries shall be submitted in writing in a form prescribed by the Commission and shall be considered a public hearing in the same manner provided for in the establishment of Inland Wetland Regulations and Boundaries within ninety (90) days after the receipt of such petition. The Commission shall act upon the changes requested within sixty (60) days after the hearing. The petitioner may consent to the extension of the periods provided for in the hearing and adoption or denial or may withdraw such petition. The Commission may require a filing fee.

12.2 All amendments or corrections of these Regulations or boundaries shall be submitted to the Commissioner of Environmental Protection no later than ten (10) days after its adoption, provided failure to submit such Regulation, boundary or change shall not impair the validity of such Regulations, boundary or change.

12.3 The enforcement of these Regulations, or any part thereof, including maps and amendments, shall be suspended upon receipt of notice from the Department of Environmental Protection that such regulations are not in conformity with the regulations promulgated by the State of Commissioner of Environmental Protection pursuant to Section 22a-39 of the Connecticut General Statutes as amended. Only the operation or activities of such nonconforming section or sections shall be suspended.

12.4 The Commission shall initiate proceedings to amend such nonconforming regulations within twenty (20) days of the receipt of a notice of nonconformance, pursuant to the amendment procedures of Section 22a-42a of the Connecticut General Statutes as amended.
